

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Michael Ray McIntosh,)	
)	C/A No. 3:07-1167-MBS
Plaintiff,)	
)	
vs.)	
)	OPINION AND ORDER
Simon Major, Jr., Director SLRDC;)	
Captain Ray Lee; Captain Gailliard;)	
Sgt. Sanders; and Officer Leo Anderson,)	
)	
Defendants.)	
_____)	

Plaintiff Michael Ray McIntosh is a pretrial detainee currently housed at the Sumter Lee Regional Detention Center. On April 30, 2007, Plaintiff, proceeding pro se, filed this action pursuant to 42 U.S.C. § 1983, asserting violation of his constitutional rights.

This matter is before the court on motion for summary judgment filed by Defendants on August 21, 2007. On August 27, 2007, an order was issued pursuant to Roseboro v. Garrison, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the summary judgment procedure and the possible consequences if he failed to respond adequately. Plaintiff failed to respond to the motion for summary judgment. On November 8, 2007, an order was issued directing Plaintiff to notify the court as to whether he wished to continue to prosecute the within action. Plaintiff filed no response to the November 8, 2007 order.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey for pretrial handling. On November 28, 2007, the Magistrate Judge issued a Report and Recommendation in which he recommended that the

complaint be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute and/or comply with orders of the court. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of objections to the Report, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The court has carefully reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Accordingly, the complaint is dismissed, with prejudice, pursuant to Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

January 7, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.